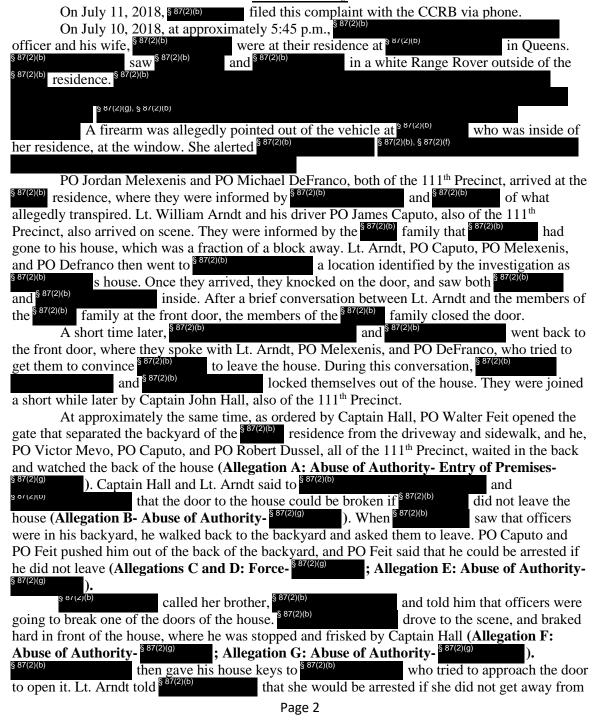
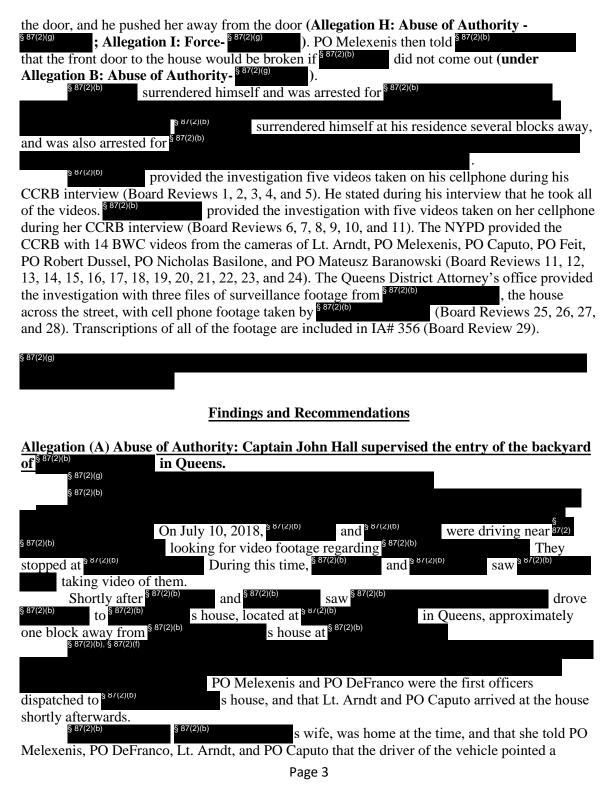
CCRB INVESTIGATIVE RECOMMENDATION

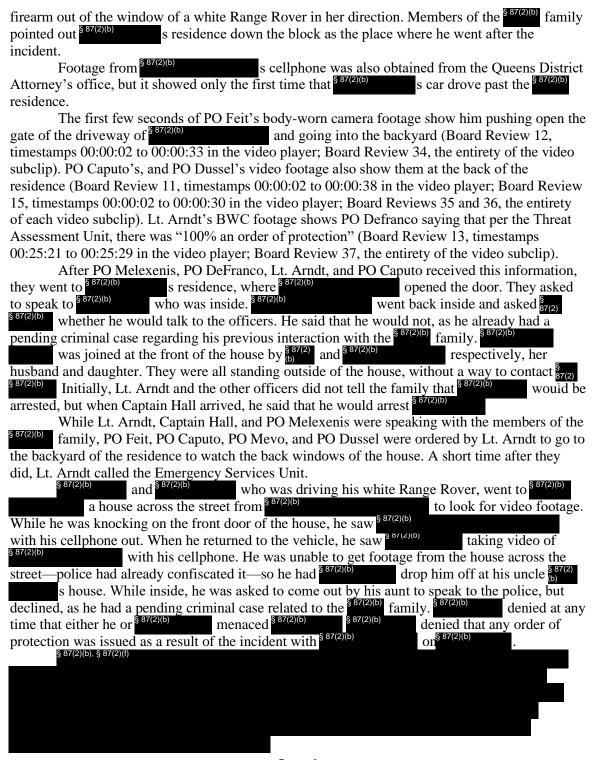
Investigator:		Team:	CCRB Case #:	V	Force		Discourt.	U.S.
Miriam Lynch		Squad #11	201805568	Ø	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•		18 N	Mo. SO	OL	Precinct:
Tuesday, 07/10/2018 5:00 PM		§ 87(2)(b)			1/1	1/10/2020		111
Date/Time CV Reported		CV Reported At:	How CV Reported:	:	Date/Tim	ne Received at CCI		RB
Wed, 07/11/2018 8:42 AM		CCRB	Phone		Wed, 07/	11/201	18 8:42 AM	1
Complainant/Victim	Type	Home Addr	ess					
Witness(es)		Home Addr	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. LT William Arndt	00000	901135	111 PCT					
2. CPT John Hall	00000	936725	111 PCT					
3. POM James Caputo	15987	957424	111 PCT					
4. POM Walter Feit	31577	940131	111 PCT					
Witness Officer(s)	Shield No	o Tax No	Cmd Name					
1. DT3 James Phillips	6889	930954	111 DET					
2. POM Jordan Melexenis	17633	958922	111 PCT					
3. POM Mateusz Baranowski	20527	958287	111 PCT					
4. POM Nicholas Basilone	22978	938035	111 PCT					
5. POM Victor Mevo	26777	965338	111 PCT					
6. SGT Taehoon Chung	04107	933561	111 PCT					
7. POM Christophe Maksym	28005	950808	111 PCT					
8. POM Robert Dussel	25510	950363	111 PCT					
9. POM Michael Defranco	03063	948860	111 PCT					
Officer(s)	Allegatio	n			Inv	estiga	ator Recon	nmendation
A . CPT John Hall	Abuse: C backyard	aptain John Hall super of § 87(2)(b)	vised the entry of the in Queens	;				
B . CPT John Hall	Abuse: C	aptain John Hall threat property.		l				
C . POM Walter Feit		lice Officer Walter Fei	t used physical force	aga	inst			

Officer(s)	Allegation	Investigator Recommendation
D . POM James Caputo	Force: Police Officer James Caputo used physical force against \$87(2)(b)	
E . POM Walter Feit	Abuse: Police Officer Walter Feit threatened to arrest (8) 87(2)	
F. CPT John Hall	Abuse: Captain John Hall stopped § 87(2)(b)	
G . CPT John Hall	Abuse: Captain John Hall frisked § 87(2)(b)	
H . LT William Arndt	Abuse: Lieutenant William Arndt threatened to arrest § 87(2)(b)	
I . LT William Arndt	Force: Lieutenant William Arndt used physical force against § 87(2)(b)	

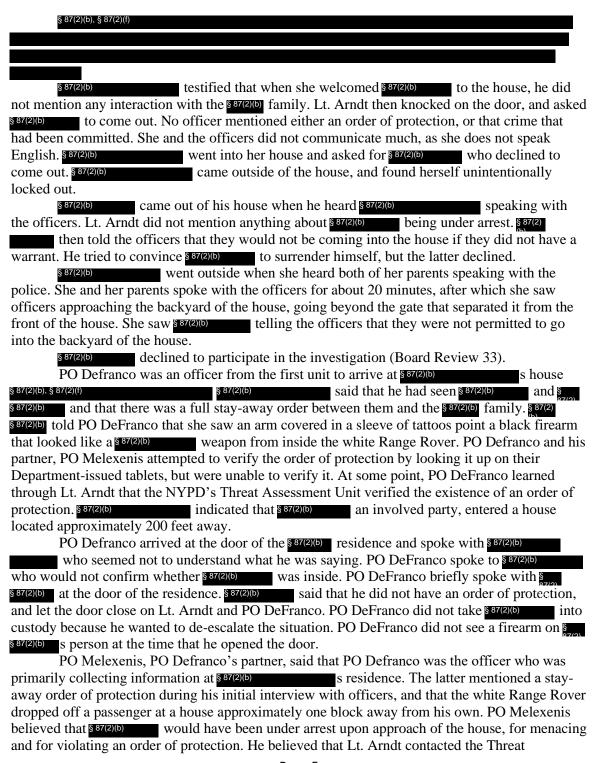
Case Summary

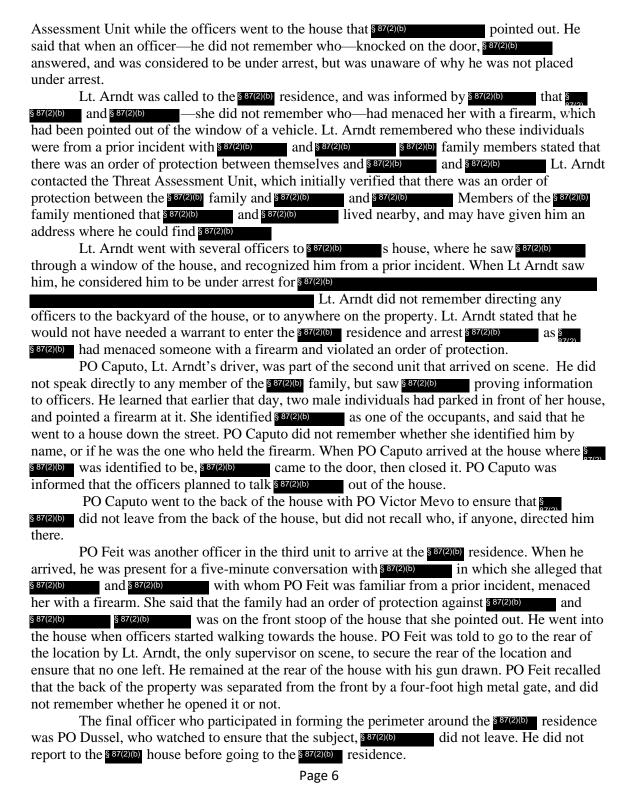






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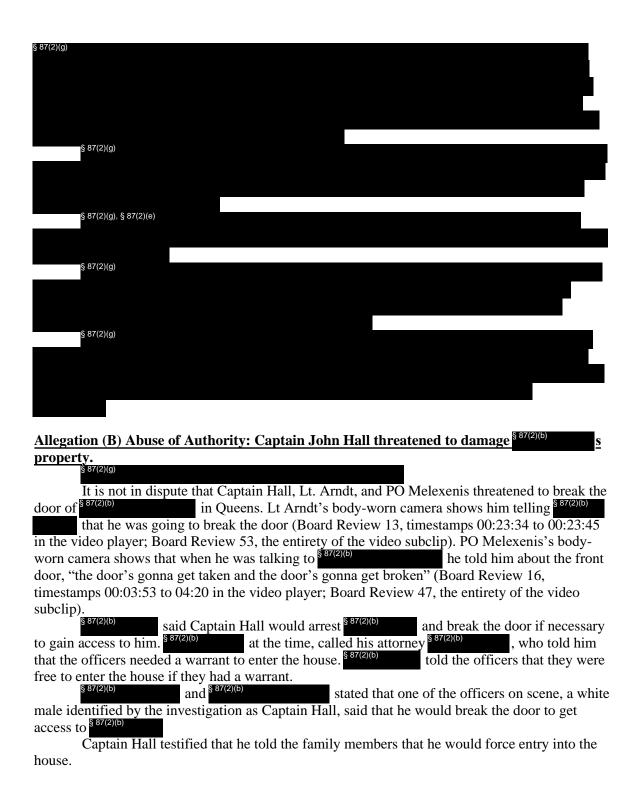




Two police officers remained at the §87(2)(b) residence after most of the other officers went
to the \$87(2)(6) residence: PO Baranowski and PO Basilone. PO Baranowski did not pass any
relevant information between the officers at the \$87(2)(b) residence and those at the \$87(2)(b)
residence. PO Baranowski and PO Basilone testified that they learned that \$87(2)(b) had been
menaced by an individual in a white Range Rover, and that there was an order of protection
between \$87(2)(b) and the \$87(2)(b) family.
Captain Hall responded to the scene, and was informed by both \$87(2)(b)
and \$87(2)(b) that they had an order of protection against \$87(2)(b) and \$87(2)(b) He
was also informed that §87(2)(b) and §87(2)(b) had driven past their house in a white
Range Rover, and that \$87(2)(b) had pointed a firearm at \$87(2)(b) \$87(2)(b) and
\$ 87(2)(b) then identified as \$ 87(2)(b) s house.
Upon his arrival to \$87(2)(b) s home, Lt. Arndt informed Captain Hall that
was seen walking by in the bay window. Lt. Arndt told Captain Hall that he considered
to be under arrest for § 87(2)(b)
Captain Hall remembered that computer checks were likely done to verify the existence of the
order of protection, but he could not determine whether he himself made these checks. He did not
remember if Lt. Arndt communicated any specific reason to believe that there was a firearm in
the house. There were approximately five officers on the property when Captain Hall arrived. He
ordered them to the backyard to set up a perimeter to prevent sescape.
The criminal court complaint for this incident, from July 10, 2018, sworn by Det. James
Phillips of the 111 th Precinct Detective Squad—the officer ultimately assigned as the arresting
officer in this case—states that \$87(2)(b) informed him that when she was arriving home, at
approximately 5:47 p.m. on July 10, 2018, she saw a white Range Rover with \$87(2)(5) and
drive by, and then drive away. When the car drove past her house a second time,
pointed a black firearm out of the window (Board Review 41).
Det. Phillips interviewed \$87(2)(b) and \$87(2)(b) at their residence. They
both said that they saw a car in front of their house with \$87(2)(b) and \$87(2)(b) While
went to press the panic button in his house, \$87(2)(b) pointed a firearm at
Det Phillips articulated that someone, either a civilian or an officer said that there
"should be" an order of protection, but Det. Phillips later learned that there was no order of
protection when he spoke with the Queens District Attorney's office, after the incident ended.
Det. Phillips denied that he passed any information to officers between the \$87(2)(b) residence and
the §87(2)(b) residence, and he did not see any other officer do so.
Surveillance footage obtained from the Queens District Attorney's office showed a white
SUV driving at the front of the \$87(2)(b) residence, and then driving away. It did not show the side
of the vehicle closest to the §87(2)(b) residence.
The Event for this incident, §87(2)(b) did not make any mention of a firearm, but
mentioned simply that a \$87(2)(b), \$87(2)(t) It mentioned that
a lieutenant called ESU (Board Review 39).
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
By the time that Captain Hall arrived on scene, § 87(2)(b) was in the house. He was
identified as being in the house by Lt. Arndt. Captain Hall directed Lt. Arndt to call ESU to the
house for a barricaded perpetrator.
In People v. Avinger 140 A.D.3d 895 (2016), the court ruled that the fenced-in backyard
of a house in Queens constituted curtilage protected under the Fourth Amendment, and that
officers could not intrude upon it without exigent circumstances or a warrant (Board Review 42). <u>People v. McBride</u> 14 N.Y.3d 440 (2010) enumerates the factors used to determine
exigency: "(1) the gravity or violent nature of the offense with which the suspect is to be charged
(2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause
to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is
in the premises [***6] being entered; (5) a likelihood that the suspect will escape if not swiftly
apprehended; and (6) the peaceful circumstances of the entry" (Board Review 43).
People v. Finlayson 76 A.D.2d 670 (1980) the principle of reasonableness for warrantles
entries: that they must be "reasonably related in scope and intensity to the circumstances
surrounding the encounter" (Board Review 44).
§ 87(2)(e)
Patrol Guide Procedure 208-36, which deals with domestic violence lays out guidelines for orders of protection. It states that if a complainant claims that they have an order of protection against an individual, then the officers involved must attempt to verify the order of protection using database checks. Even if an order of protection cannot be located, officers may enforce it if they have probable cause that it exists (Board Review 46).
§ 87(2)(g)
§ 87(2)(g)
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§ 87(2)(g)



Lt. Arndt testified told members of the [87(2)(b)] family that if [87(2)(b)] did not leave the house, he would need to call the Emergency Services Unit and break the door.

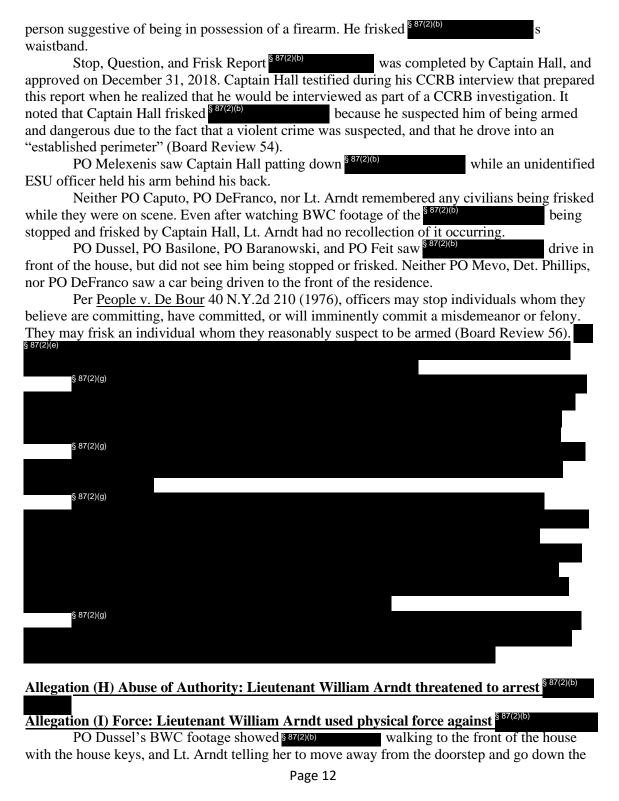
PO Melexenis, in his CCRB interview, initially denied saying that the door would be broken, and that he could not think of any reason why he would make such a statement. When shown his body-worn camera footage, explained that he made the statement, because he assumed that the Emergency Services Unit was on scene to break the door.

As noted above, <u>People v. McBride</u> 14 N.Y.3d 440 (2010) enumerates the factors used to determine exigency: "(1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause ... to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises [***6] being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry" (Board Review 43).

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
Allegation (C) Force: Police Officer Walter Feit used physical force against 887(2)(6)
Allegation (D) Force: Police Officer James Caputo used physical force against \$87(2)(6)
Allegation (E) Abuse of Authority: Police Officer Walter Feit threatened to arrest \$\sum_{(a)}^{\infty}(2)\$
PO Feit's body-worn camera footage shows him telling \$87(2)(b) to get out of the
backyard, and then shows his hands on \$87(2)(b) s back, after \$87(2)(b) goes to the
backyard of the house. In the footage, PO Feit says, "We're going to put you in cuffs in a second." And "You're gonna get thrown in cuffs" (Board Review 12, timestamps 00:12:06 to 11:12:46 in
the video player; Board Review 51, the entirety of the video subclip). PO Caputo's body-worn
camera footage also shows him putting his hand on \$887(2)(b) shock.
said that when he saw officers in his backyard, he went back to address
their presence. When he did so, an officer "pulled" him by his shoulder and told him that he could
not be there. He did not remember any officer pushing him. One of the officers said that he would
arrest him and \$87(2)(b) (the alleged threat of arrest to \$87(2)(b) is addressed
below). [\$\frac{\\$ \\$7(2)(b)}{2} \] informed [\$\frac{\\$ \\$7(2)(b)}{2} \] that she saw him being pushed, but that he
himself could not recall this occurring. 887(2)(b) and 887(2)(b) all observed officers pushing
§ 87(2)(b) all observed officers pushing ser(2)(b)
Dana 40

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PO Feit said that he told \$87(2)(b) that he could be placed into handcuffs, because he was interfering with the officers' ability to secure the rear of the house. PO Feit and PO Caputo placed their hands at shoulder height, made physical contact with \$87(2)(b) and \$87(2)(b) walked out on his own power. While PO Caputo was at the back of the \$87(2)(b) residence, he saw \$87(2)(b) come to the back. He wanted \$87(2)(b) to leave, as he believed that there was someone with a firearm at the house. He lightly touched \$87(2)(b) on his back and guided him out of the backyard. 887(2)(e) New York State Penal Law section 195.05 defines obstructing governmental administration (OGA) as "interfering" with an "official function" (Board Review 49). Patrol Guide Procedure 221-01 requires officers to use force according to an objectively reasonable standard (Board Review 50).
§ 87(2)(g)
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§ 87(2)(g)
§ 87(2)(g)
Allegation (F) Abuse of Authority: Captain John Hall stopped §87(2)(0)
Allegation (G) Abuse of Authority: Captain John Hall frisked 887(2)(b)
PO Melexenis's BWC footage showed \$87(2)(b) driving up to the front of the
residence. The video also shows Captain Hall frisking him in front of the house (Board
Review 16, timestamps 00:00:49 to 00:01:47 in the video player; Board Review 55, entirety of
the video clip).
§ 87(2)(b) saw officers place § 87(2)(b)
s arms behind his back after he arrived in his vehicle and braked hard in front of the
house. S87(2)(b) could not be reached by the investigation to give a statement
regarding this incident (Board Review 33).
Captain Hall said that he saw a vehicle drive quickly to the front of the house. The driver
parked the car hastily and rushed towards the house with a "determined" look on his face. Captain
Hall thought that he could have been [\$87(2)(b)] not having seen [\$87(2)(b)] in person, and
not having a physical description of him. He did not see anything on \$87(2)(5)



stairs. He then placed his hand on her shoulder and pushed her once with one hand, away from
the front door. He said to her, "If you don't go downstairs, you're gonna get arrested." He, PO
Basilone, and PO Dussel followed \$87(2)(b) and \$87(2)(b) who tried to speak
with \$87(2)(b) to the sidewalk, when Lt. Arndt put one hand on \$87(2)(b) s back a
second time, and pushed her. None of these pushes appeared to cause \$87(2)(b) to fall
forward or stumble (Board Review 15, timestamps 00:07:23 to 08:08 in the video player; Board
Review 57, the entirety of the video subclip).
stated that after \$87(2)(b) drove to the front of the house, he
gave her the keys to the front door of the house, so that she could restrain her dog. She
approached her house through the front porch. Lt. Arndt told her that she could not go into the
house. S87(2)(b) said that she wanted to restrain her dog. Lt. Arndt told her that she could
not go inside. He pushed her with two hands, and told her that he would arrest her if she did not
calm down. §87(2)(b) was not injured as a result.
testified that he saw two officers push sar(2)(b) testified that he saw two officers push from a second-story
window of \$87(2)(0)
said that he saw an officer grab \$87(2)(b) roughly, "like a man." He
did not describe this action further.
remembered series and the front of series are series and the series are series are series and the series are series are series and the series are
the house.
Before watching PO Dussel's BWC footage, Lt. Arndt denied telling anyone that they
would be arrested if they went near the house, nor did he remember pushing anyone away from
it. After watching PO Dussel's video, he identified himself as the officer who took these actions.
He said that he told \$87(2)(b) that she could be arrested because he did not want her to
get hurt. He said that she could have been charged with obstructing governmental administration
if ESU had been on scene. He did not remember if ESU was on scene at the time.
\$87(2)(e)
New York State
Penal Law section 195.05 defines obstructing governmental administration as "interfering" with
an "official function" (Board Review 49). Patrol Guide Procedure 221-01 requires officers to use
force according to an objectively reasonable standard (Board Review 50).
§ 87(2)(g)
§ 87(2)(g)

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Civilian and Officer CCRB Histories

•	This is the first CCRB case involving \$87(2)(b) (Board Review 58). This is the first CCRB case involving \$87(2)(b) (Board Review 59). This is the first CCRB case involving \$87(2)(b) (Board Review 60) This is the second CCRB case involving \$87(2)(b) \$87(2)(b)
•	Captain Hall has been a member of service for 14 years. Two prior complaints, and 6 prior allegations have been filed against him. o In case 201904032, stop and search allegations were substantiated, and charges were recommended by the Board. The NYPD gave Instructions. §87(4-b) §87(2)(9)
•	Lt. Arndt has been a member of service for 27 years. Three prior complaints, and four prior allegations, have been filed against him. None have been substantiated.
•	PO Feit has been a member of service for 13 years. Two prior complaints, with three prior allegations, have been filed against him. None has been substantiated.
•	PO Caputo has been a member of service for four years. This is the first complaint filed against him.
	Mediation, Civil and Criminal Histories
	This case was not suitable for mediation. As of October 8, 2019, the New York City Office of the Comptroller does not have a record of a Notice of Claim being filed in regards to this complaint (Board Review 62). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.:			
Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date